

**REMARKS**

Applicants respectfully request reconsideration of the application, as amended, in view of the following remarks and the attached **Rule 132 Declaration**.

The present invention as set forth in **amended Claim 22** relates to an absorbent insert for a packaging, comprising:

a top covering layer;

a bottom covering layer; and

a core which absorbs an aqueous liquid and comprises an absorbent polymer;

wherein said absorbent polymer has been obtained from a partially neutralized ethylenically unsaturated monomer containing an acid group and a crosslinker; and

wherein said absorbent polymer has a quotient  $Q_{SAP\ 0,3}$  calculated from retention and absorption under a pressure of 0,3 psi and from an amount of a soluble ratio of at least 20 and a retention of at least 22 g/g.

**Amended Claim 34** relates to a method of packaging foodstuff, comprising:

packaging a foodstuff in a package comprising the absorbent insert which comprises

(a) a top covering layer, (b) a bottom covering layer, and (c) a core which absorbs an aqueous liquid and comprises an absorbent polymer;

wherein the absorbent polymer has been obtained from a partially neutralized ethylenically unsaturated monomer containing an acid group and a crosslinker; and

wherein said absorbent polymer has a quotient  $Q_{SAP\ 0,3}$  calculated from retention and absorption under a pressure of 0,3 psi and from the amount of soluble ratio of at least 20 and a retention of at least 22 g/g.

**Amended Claim 35** relates to a method of making ice for a packaging application, comprising:

(a) providing an absorbent insert comprising (a) a top covering layer, (b) a bottom covering layer, and (c) a core which absorbs an aqueous liquid and comprises an absorbent polymer, wherein the absorbent polymer has been obtained from a partially neutralized ethylenically unsaturated monomer containing an acid group and a crosslinker; and wherein said absorbent polymer has a quotient  $Q_{SAP\ 0,3}$  calculated from retention and absorption under a pressure of 0,3 psi and from the amount of soluble ratio of at least 20 and a retention of at least 22 g/g;

(b) soaking said absorbent insert in water, thereby obtaining a soaked insert; and

(c) freezing the soaked insert.

In the parent case, Serial No. 09/961,431, Applicants had pointed out that none of the cited references discloses or suggests the claimed absorbent insert having the claimed structure and an absorbent polymer with the claimed  $Q_{SAP}$ . However, it was the Examiners' opinion that at least the polymer of Brehm et al inherently possesses the claimed  $Q_{SAP}$  and that it is obvious to use this polymer in a structure such as that disclosed by Midkiff et al. The Examiner had indicated that Applicants may address her concern by providing data that show that the polymers exemplified by Brehm et al do not have the claimed  $Q_{SAP}$ .

In regard to Dawson et al, the Examiner also wanted to see data showing the  $Q_{SAP}$  of Sunwet IM-5700-D.

Accordingly, Applicants provide herewith a Rule 132 Declaration showing that the  $Q_{SAP}$  of the polymers according to Brehm et al and the  $Q_{SAP}$  of Sunwet IM-5700-D of Dawson et al are outside the claimed range of at least 20. In both, Brehm et al and Dawson et al the  $Q_{SAP}$  is much lower than 20 (14.2, 14.6, and 8.6, respectively).

In addition, Midkiff et al, Kellenberger, and Poccia et al do not disclose or suggest an absorbent polymer with the claimed  $Q_{SAP}$ .

Therefore, the rejection of Claims 22-27, 29, 30, 32 and 33 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Brehm et al (US 5,672,633), the rejection of Claim 34 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Midkiff et al (EP 0 353 334), the rejection of Claim 35 under 35 U.S.C. § 102(e) as anticipated by or, in the alternative, under 35 U.S.C. § 103(a) as obvious over Dawson et al (US 5,709,089), the rejection of Claim 28 under 35 U.S.C. § 103(a) as being unpatentable over Brehm et al in view of Keilenberger (EP 0443 627 A2), the rejection of Claim 31 under 35 U.S.C. § 103(a) as being unpatentable over Brehm et al in view of Poccia et al (US 5,100,397) are believed to be unsustainable as the present invention is neither anticipated nor obvious and withdrawal of this rejection is respectfully requested.

Claims 22-31, 34 and 35 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regards as the invention

The objection to Claims 32, 34 and 35 and the rejection of Claims 22-31, 34 and 35 under 35 U.S.C. § 112, 2<sup>nd</sup> paragraph, are obviated by the amendments of the claims.

Further, the Examiner apparently overlooked that the Application Data Sheet properly refers to the parent applications. Copies of the Application Data Sheet and the date-stamped filing receipt are attached herewith. Accordingly, Applicants request that this case should receive the **benefit of the earlier filing date** of the first parent case, PCT/EP97/03380 filed June 27, 1997.

This application presents allowable subject matter, and the Examiner is kindly requested to pass it to issue. Should the Examiner have any questions regarding the claims or otherwise wish to discuss this case, he is kindly invited to contact Applicants' below-signed

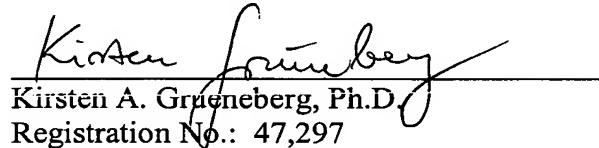
Application No.: 10/656,179

Reply to the Office Action dated: February 24, 2005

representative, who would be happy to provide any assistance deemed necessary in speeding this application to allowance.

Respectfully submitted,

OBLON, SPIVAK, McCLELLAND,  
MAIER & NEUSTADT, P.C.  
Norman F. Oblon

  
Kirsten A. Grueneberg, Ph.D.  
Registration No.: 47,297

Customer Number

22850

Tel: (703) 413-3000

Fax: (703) 413 -2220

NFO:KAG: